

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jean Paul Lozada	Team: Squad #2	CCRB Case #: 201905646	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 06/26/2019 8:59 PM	Location of Incident: § 87(2)(b)	Precinct: 123	18 Mo. SOL 12/26/2020	EO SOL 8/12/2021	
Date/Time CV Reported Thu, 06/27/2019 2:19 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 06/27/2019 2:19 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Crystal Vale	25822	952310	123 PCT
2. POM Gabriel Cuadros	20548	958453	123 PCT
3. Officers			123 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Eduardo Gray	15901	964029	123 PCT
2. POM Lucas Kalas	09974	954014	123 PCT
3. POM John Diaz	24730	962360	123 PCT
4. POM Daniel Center	29164	945574	123 PCT
5. POM Joshua Petersen	14629	964212	123 PCT
6. POM Elio Chianetta	16230	957455	123 PCT
7. POM Christophe Gonzalez	00643	960601	123 PCT
8. POM Matthew Borik	29136	964937	123 PCT
9. SSA Andre Teterycz	03188	907433	123 PCT
10. LT Daniel Tovar	00000	946338	123 PCT
11. POM Marchelo Quagliata	10644	953279	123 PCT
12. POM Nicholas Guarino	22917	962451	123 PCT
13. POM Mathew Ramos	07913	959114	123 PCT
14. POM Eric Zielinski	12893	953606	123 PCT
15. POM Umar Yasin	16312	958180	123 PCT
16. POM Edward Delacruz	08278	960429	123 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Gabriel Cuadros	Abuse: Police Officer Gabriel Cuadros entered § 87(2)(b) in Staten Island.	

Officer(s)	Allegation	Investigator Recommendation
B.POM Gabriel Cuadros	Force: Police Officer Gabriel Cuadros used physical force against § 87(2)(b)	
C.POF Crystal Vale	Force: Police Officer Crystal Vale used physical force against § 87(2)(b)	
D.POM Gabriel Cuadros	Abuse: Police Officer Gabriel Cuadros failed to provide § 87(2)(b) with a business card.	
E.POM Gabriel Cuadros	Abuse: Police Officer Gabriel Cuadros failed to provide § 87(2)(b) with a business card.	
F.POM Gabriel Cuadros	Abuse: Police Officer Gabriel Cuadros failed to provide § 87(2)(b) with a business card.	
G.POM Gabriel Cuadros	Abuse: Police Officer Gabriel Cuadros failed to provide § 87(2)(b) Unknown with a business card.	
H.POF Crystal Vale	Abuse: Police Officer Crystal Vale failed to provide § 87(2)(b) with a business card.	
I.POF Crystal Vale	Abuse: Police Officer Crystal Vale failed to provide § 87(2)(b) with a business card.	
J.POF Crystal Vale	Abuse: Police Officer Crystal Vale failed to provide § 87(2)(b) with a business card.	
K.POF Crystal Vale	Abuse: Police Officer Crystal Vale failed to provide § 87(2)(b) Unknown with a business card.	
L. Officers	Abuse: Officers did not obtain medical treatment for § 87(2)(b)	

Case Summary

On June 27, 2019, § 87(2)(b) filed this complaint with the CCRB via telephone on behalf of himself, his mother § 87(2)(b) his fiancée § 87(2)(b) and his friend § 87(2)(b) (last name unknown).

On June 26, 2019, at approximately 8:59 p.m., Police Officer Gabriel Cuadros and Police Officer Crystal Vale of the 123rd Precinct went to § 87(2)(b) in Staten Island to arrest § 87(2)(b) for menacing his neighbor, § 87(2)(b) (Board Review 01). § 87(2)(b) opened the front door, and Police Officer Cuadros asked him to step outside. § 87(2)(b) refused to step outside and began to push the door closed. Police Officer Cuadros pushed the door back open, striking § 87(2)(b) in his casted, fractured left hand and causing serious pain (**Allegation A – Abuse of Authority: Entry of Premises, § 87(2)(g)**; **Allegation B – Force: Physical Force, § 87(2)(g)**). § 87(2)(b) sat on the stairs, and Police Officer Cuadros allegedly pulled § 87(2)(b) by his cast, while Police Officer Vale allegedly pulled him by his shoulder (**Allegations B and C – Force: Physical Force, § 87(2)(g)**). § 87(2)(b) and § 87(2)(b) allegedly asked Police Officer Cuadros and Police Officer Vale for their business cards, but they did not provide any (**Allegations D, E, F, G, H, I, J, and K – Abuse of Authority: Failure to Provide RTKA Card, § 87(2)(g)**). § 87(2)(b) requested medical attention from an unknown officer, and the officers allegedly did not allow him to enter an ambulance that had arrived at the scene (**Allegation L – Abuse of Authority: Refusal to Obtain Medical Treatment, § 87(2)(g)**). § 87(2)(b) was arrested and again requested medical attention at the 123rd Precinct stationhouse, but an ambulance allegedly did not arrive until approximately four hours later (**within Allegation L**).

§ 87(2)(b) provided a video of the events at § 87(2)(b) filmed by § 87(2)(b) (IA #10, Board Review 02). Footage was obtained from the body-worn cameras (BWCs) of Police Officer Cuadros, Police Officer Vale, Police Officer Daniel Center, Police Officer Joshua Petersen, Police Officer Edward Delacruz, Police Officer Eric Zielinski, Police Officer Matthew Borik, Police Officer Marchelo Quagliata, Police Officer Nicholas Guarino, Police Officer Mathew Ramos, and Police Officer Umar Yasin of the 123rd Precinct (IA #65-76, Board Review 03-14).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Gabriel Cuadros entered § 87(2)(b) in Staten Island.

§ 87(2)(b) was interviewed at the CCRB on July 3, 2019 (Board Review 15), and he provided a follow-up telephone statement on August 1, 2019 (Board Review 16). Police Officer Cuadros was interviewed on October 30, 2019 (Board Review 17). Contact was unable to be established with § 87(2)(b) and § 87(2)(b) and § 87(2)(b) did not provide any contact information for § 87(2)(b).

Police Officer Cuadros stated that § 87(2)(b) had multiple complaints against § 87(2)(b) her upstairs neighbor, for harassment. Over approximately two years' time, § 87(2)(b) made over 60 311 complaints and 30 911 calls for noise, drugs, and suspicious activity at § 87(2)(b). The NYPD also had written statements from § 87(2)(b) and multiple complaints that were forwarded to the Assistant District Attorney's office. On prior occasions, § 87(2)(b) allegedly cursed at § 87(2)(b) called her a "bitch," chased her, broke her window, and threatened to kill her. § 87(2)(b) was fearful to leave her home. Police Officer Cuadros and Police Officer Vale "know § 87(2)(b) very well" from § 87(2)(b)'s complaints, and § 87(2)(b).

§ 87(2)(b) had been told that § 87(2)(b) wants no contact with him.

On June 26, 2019, at approximately 5:00 p.m., Police Officer Cuadros and Police Officer Vale visited § 87(2)(b) who decided that “she had enough.” She told the officers that earlier in the week, § 87(2)(b) tried to climb into his residence through her backyard. § 87(2)(b) also reported constant banging and screaming coming from § 87(2)(b). § 87(2)(b) showed the officers footage from her Ring video doorbell, which shows § 87(2)(b) flipping his middle finger at the camera. Police Officer Cuadros and Police Officer Vale decided together that they needed to arrest § 87(2)(b) and they believed they had sufficient probable cause to arrest § 87(2)(b) based on § 87(2)(b)'s UF61 complaints (Board Review 23).

A request to the NYPD for all UF61 Complaint Reports filed by § 87(2)(b) against § 87(2)(b) between January 1, 2017, and June 26, 2019, returned 8 UF61s (Board Review 23), the earliest filed on April 11, 2017, and the latest filed on June 26, 2019, a few hours prior to this incident. In UF61 # § 87(2)(b), filed on April 11, 2017, § 87(2)(b) and her husband reported that on April 10, 2017, § 87(2)(b) knocked on their door and rang their bell constantly, causing them to be alarmed and annoyed. In UF61 # § 87(2)(b), filed on April 17, 2018, § 87(2)(b) reported that on April 17, 2018, § 87(2)(b) repeatedly banged on her front door, called her a “bitch,” and stood outside her door screaming and behaving aggressively, causing extreme annoyance and alarm. In UF61 # § 87(2)(b), filed on June 26, 2019, § 87(2)(b) reported that on November 3, 2017, § 87(2)(b) approached her camera and covered the camera, causing annoyance and alarm. In UF61 # § 87(2)(b), § 87(2)(b) reported that on June 7, 2019, § 87(2)(b) approached her and yelled at her, stating, “You’re a rude bitch,” causing her to feel physically threatened, scared, and annoyed. In UF61 # § 87(2)(b), filed on June 26, 2019, § 87(2)(b) reported that on June 19, 2019, § 87(2)(b) screamed obscenities into her camera (The UF61 noted that video of this incident was available). In UF61 # § 87(2)(b), § 87(2)(b) reported that on June 23, 2019, § 87(2)(b) came to her door while it was being painted and yelled obscenities. In UF61 # § 87(2)(b), filed on June 26, 2019, § 87(2)(b) reported that on June 23, 2019, § 87(2)(b) stated to her, “If you call the cops on me I will get somebody after you” and made a fist, causing her to be alarmed for her safety. In UF61 # § 87(2)(b), filed on June 26, 2019, § 87(2)(b) reported that on June 24, 2019, § 87(2)(b) screamed at her from his balcony and stated, “You’re a fucking bitch.” Six of the UF61s were classified as “Harassment” and two were classified as “Menacing.”

The following facts are undisputed and are corroborated by Police Officer Cuadros’ and Police Officer Vale’s BWC footage (Board Review 03, 04): At approximately 8:59 p.m., Police Officer Cuadros and Police Officer Vale went to § 87(2)(b) without meeting § 87(2)(b) to arrest § 87(2)(b) for menacing her. The officers did not have an arrest warrant for § 87(2)(b) or a search warrant for § 87(2)(b) but had 8 open UF61 Complaint Reports against § 87(2)(b). At runtime 04:09 of Police Officer Cuadros’ BWC footage, § 87(2)(b) opened his front door and remained in the doorway, and he did not invite the officers inside. Police Officer Cuadros asked § 87(2)(b) to step outside, and § 87(2)(b) refused to do so. At runtime 04:30, § 87(2)(b) began to push his door closed, and Police Officer Cuadros physically prevented § 87(2)(b) from closing the door. Police Officer Cuadros then stepped inside § 87(2)(b) and effected § 87(2)(b)'s arrest in the vestibule immediately behind the front door.

Although both § 87(2)(b) and Police Officer Cuadros stated that § 87(2)(b) never stepped outside his home before Police Officer Cuadros pushed the door open, Police Officer

Vale's BWC footage (Board Review 04) at runtime 04:16 shows that while speaking to the officers, § 87(2)(b) briefly took a step outside and straddled the threshold of the doorway (one foot inside, one foot outside) for approximately five seconds before he stepped fully back inside and attempted to close the door.

People v. Gonzales (111 A.D.3d 147, 2nd Department, 2013), citing Payton v. New York (445 U.S. 573, SCOTUS, 1980) and People v. Reynoso (309 A.D.2d 789, 2nd Department, 2003; affirmed in People v. Reynoso, 2 N.Y.3s 820, NY Court of Appeals, 2004), states, "The Fourth Amendment has drawn a firm line at the entrance to the house. Absent exigent circumstances, that threshold may not be reasonably crossed without a warrant... As the United States Supreme Court said in Payton, 'the Fourth Amendment protects the individual's privacy in a variety of settings. In none is the zone of privacy more clearly defined than when bounded by the unambiguous physical dimensions of an individual's home... In Reynoso, the police testified that the defendant had voluntarily left his home upon their request that he step outside. The defendant, by contrast, contended that, after he 'put [his] head outside the door jamb to see who was calling at this later hour', the police reached in and pulled him out. Thus, in both versions of what had transpired, the defendant had voluntarily emerged, at least in part, from his home. By doing so, he surrendered the enhanced constitutional protection of the home" (Board Review 18).

Gonzales involved an incident in which, § 87(2)(g) officers went to an individual's residence to arrest him. The individual opened the door. After speaking with the officers, he attempted to close the door, and the officers pushed their way in and arrested him. The court ruled that, "If the defendant's encounter with the police had begun outside his home, or even on the threshold of it, the defendant could not have avoided arrest by fleeing into his home," but since "he had never left the constitutionally protected interior of his home in the first place, even partially, he did not 'flee' into his home," and so the officers' entry was improper. The court contrasted the circumstances in Gonzales with Reynoso (§ 87(2)(g)) on the fact that while in Reynoso the defendant, at minimum, stuck his head out past the threshold, in Gonzales, he did not exit at all.

§ 87(2)(g)
[REDACTED]

Allegation (B) Force: Police Officer Gabriel Cuadros used physical force against § 87(2)(b)

Allegation (C) Force: Police Officer Crystal Vale used physical force against § 87(2)(b)

§ 87(2)(b) stated that when Police Officer Cuadros pushed the door open, the door struck his casted, already-fractured left hand, causing severe pain. § 87(2)(b) sat down on the stairs, and Police Officer Cuadros pulled his left arm by the cast, while Police Officer Vale pulled him by his left shoulder. § 87(2)(b) believed the officers were attempting to pull him out of his home. As a result of these pulls, § 87(2)(b) stood up, and then saw back down on the stairs.

Police Officer Cuadros stated that when § 87(2)(b) began to push the door closed, he placed his foot in the door to prevent him from closing it any further. He denied pushing the door open any further and stated that he did not cause the door to make impact with § 87(2)(b)'s cast. Police Officer Cuadros denied touching § 87(2)(b)'s cast. He stated that he placed his hand on § 87(2)(b)'s right shoulder and told him to relax, and § 87(2)(b) screamed, "My arm! My arm!" Police Officer Cuadros had no understanding of what caused § 87(2)(b) to scream at this moment, and he stated that no one touched § 87(2)(b)'s arm.

According to § 87(2)(b)'s medical records from § 87(2)(b) (Board Review 19), § 87(2)(b)'s chief complaint was that he believed his sutures may have been torn while being arrested, and that he wanted a sling. An examination of his fractured hand found that the sutures were in place.

Police Officer Cuadros' account of this alleged force is generally corroborated by his and Police Officer Vale's BWC videos (Board Review 03, 04), as well as by the video filmed by § 87(2)(b) (Board Review 02). At runtime 04:27 of Police Officer Vale's video (runtime 04:30 of Police Officer Cuadros' video), § 87(2)(b) begins pushing the door closed, and Police Officer Cuadros moves towards the door and prevents him from closing it. It is unclear which part of his body Police Officer Cuadros uses to hold the door open. § 87(2)(b) does not appear to scream or otherwise express pain when Police Officer Cuadros prevented him from closing the door. The door is mostly shut, and Police Officer Cuadros orders § 87(2)(b) to open the door. At runtime 04:44 of Police Officer Cuadros' video, the door gently opens the rest of the way, but it is unclear who opens it. Police Officer Cuadros does not appear to push the door inwards or towards § 87(2)(b) at any point. At no point in these videos are Police Officer Cuadros or Police Officer Vale seen pulling or otherwise using force against § 87(2)(b) and no officer appears to touch § 87(2)(b)'s cast at any point. At no point does § 87(2)(b) stand up as a result of the officers' physical contact.

§ 87(2)(g)

Allegation (D) Abuse of Authority: Police Officer Gabriel Cuadros failed to provide § 87(2)(b) with a business card.

Allegation (E) Abuse of Authority: Police Officer Gabriel Cuadros failed to provide § 87(2)(b) with a business card.

Allegation (F) Abuse of Authority: Police Officer Gabriel Cuadros failed to provide § 87(2)(b) with a business card.

Allegation (G) Abuse of Authority: Police Officer Gabriel Cuadros failed to provide § 87(2)(b) Unknown with a business card.

Allegation (H) Abuse of Authority: Police Officer Crystal Vale failed to provide § 87(2)(b) with a business card.

Allegation (I) Abuse of Authority: Police Officer Crystal Vale failed to provide § 87(2)(b) with a business card.

Allegation (J) Abuse of Authority: Police Officer Crystal Vale failed to provide § 87(2)(b) with a business card.

Allegation (K) Abuse of Authority: Police Officer Crystal Vale failed to provide § 87(2)(b) with a business card.

§ 87(2)(b) stated that while the officers brought him to a police vehicle, he, § 87(2)(b) and § 87(2)(b) asked Police Officer Cuadros and Police Officer Vale for their business cards, and they did not provide their cards or otherwise respond to these requests in any fashion.

Police Officer Cuadros stated that no one asked him or Police Officer Vale for their business cards.

At no point in any of the officers' BWC videos (Board Review 03-14) or § 87(2)(b)'s video (Board Review 02) is § 87(2)(b) or § 87(2)(b) heard asking any officer for a business card.

§ 87(2)(g)

Allegation (L) Abuse of Authority: Officers refused to obtain medical treatment for § 87(2)(b).

§ 87(2)(b) stated that at § 87(2)(b) he asked one of the officers for medical attention, but he did not recall which one he asked. An ambulance arrived at the scene, but § 87(2)(b) did not recall why he did not get in an ambulance. § 87(2)(b) did not believe the officers allowed him to speak to the EMTs because they instead placed him in a police vehicle and took him to the 123rd Precinct stationhouse. At the stationhouse, § 87(2)(b) and Police Officer Cuadros and Police Officer Vale for medical attention, and an ambulance did not arrive until four hours later.

Police Officer Cuadros stated that § 87(2)(b) refused medical attention at § 87(2)(b) and that no officer prevented him from entering the ambulance. At the stationhouse, an officer asked § 87(2)(b) if he needed to go to the hospital, and § 87(2)(b) said no. Police Officer Cuadros called an ambulance to the stationhouse anyway, and EMTs arrived and offered to render care to § 87(2)(b) who again refused medical attention.

In Police Officer Cuadros' BWC footage (Board Review 03), at runtime 18:46, an ambulance is seen parked outside § 87(2)(b). Sergeant Andre Teterycz of the 123rd Precinct asks, "Do you require the ambulance, yes or no?" § 87(2)(b) says, "It's gonna be easier for me to get there quicker, right?" Sergeant Teterycz says, "No, sir. Either we go to the hospital and then to the precinct, or we go to the precinct." § 87(2)(b) says, "I want to go to the precinct first." Sergeant Teterycz asks, "When you get to the precinct, do you require an ambulance?" § 87(2)(b) says, "No, I don't need medical attention. I just came back from the hospital." Sergeant Teterycz again asks § 87(2)(b) if he needs an ambulance, and § 87(2)(b) says no. § 87(2)(b) refused medical attention several more times en route to and at the 123rd Precinct stationhouse (see runtimes 26:09 and 34:52). At runtime 37:22 (timestamp 9:32 p.m.), § 87(2)(b) who is in a cell, asks for a sling, and Police Officer Cuadros requests an ambulance to the stationhouse via radio.

Police Officer Vale's second BWC video (Board Review 05) begins at 9:50 p.m. and shows two EMTs — § 87(2)(b) and § 87(2)(b) — speaking § 87(2)(b) in a cell. A runtime 01:30, § 87(2)(b) "I'd rather see the judge first," and, "I'll go to the hospital tomorrow."

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been parties, and the second CCRB complaint to which § 87(2)(b) has been a party (Board Review 20).
 - § 87(2)(b)
- Police Officer Gabriel Cuadros has been a member of service for four years and has been a subject in five other CCRB complaints and 15 other allegations, none of which were substantiated. § 87(2)(g)
- Police Officer Crystal Vale has been a member of service for eight years and has been a subject in two other CCRB complaints and three other allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of December 26, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 21).

- § 87(2)(b)
- § 87(2)(b)

Squad No.: 02

Investigator:

SI Jean-Paul Lozada
Signature

Print Title & Name

Date

Squad Leader: Alexander Opoku-Agyemang IM Alexander Opoku-Agyemang 04/02/2020

Signature

Print Title & Name

Date

Reviewer:

Signature

Print Title & Name

Date